

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

LAVELL RAMONE PORTER,

Case No. 19-CV-3198 (NEB/TNL)

Petitioner,

v.

ORDER ACCEPTING REPORT AND
RECOMMENDATION

VICKI JANSSEN, Warden, Rush City
Correctional Facility, Minnesota,

Respondent.

Petitioner Lavell Ramone Porter filed a Motion for Stay of Habeas Proceedings on December 30, 2019. (ECF No. 1.) In a Report and Recommendation dated April 13, 2020, United States Magistrate Judge Tony N. Leung recommended that Porter's motion be denied, and that the matter be dismissed without prejudice. (ECF No. 10 ("R&R").) On April 23, 2020, Porter filed a short letter objecting to the R&R on the grounds that he needs additional time to research his "recent discovery of a Brady/Giglio claim" because the prison library is currently closed due to the COVID-19 virus. (ECF No. 12.) He also notes that prior to the prison library closing, he "was just about finished with [his] pro se petition." (*Id.*)

Porter's letter does not raise any objection to the merits of the R&R. Rather, it indicates that Porter is in the process of attempting to correct two deficiencies identified by Judge Leung: (1) Porter had "not filed any § 2254 petition *at all*," (R&R at 4 (emphasis

in original)); and (2) Porter had “not specified the particular claim (or claims) that he plans to present in state court.” (*Id.* at 5 (explaining the court’s inability to conclude the appropriateness of a *Rhines* stay due to a lack of claims presented).) The Court concludes that while Porter may not like the outcome of the R&R, he does not object to its reasoning.

A district court “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “Without objections, a district court is under no obligation to review the factual or legal conclusions of such a report, absent requirements from the Circuit in which it sits.” *Reed v. Curry Concrete Constr., Inc.*, No. 10-CV-4329 (JRT/LIB), 2011 WL 2015217, at *2 (D. Minn. May 23, 2011) (citing *Thomas v. Arn*, 474 U.S. 140, 150 (1985)). When a party does not cite any reason why the R&R is incorrect, nor any basis for the Court to reach a different outcome, the Court is not required to conduct a *de novo* review of the Magistrate Judge’s recommendations. *Id.* (noting other circuits have held that *de novo* review is not required or necessary “when a party makes general or conclusory objections that do not direct the court to a specific error in the magistrate judge’s proposed findings and recommendations.”). Because Porter raises no objections, the Court reviews the R&R for clear error. *Id.* (collecting cases); *see also Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam) (acknowledging that district courts review R&Rs for clear error absent an objection). The Court finds Judge Leung’s reasoning sound and finds no legal basis to depart from his recommendations.

Finding no clear error, and based on the foregoing, and on all the files, records, and proceedings herein, IT IS HEREBY ORDERED THAT:

1. The Report and Recommendation (ECF No. 10) is ACCEPTED;
2. Petitioner's Motion for Stay of Habeas Proceedings (ECF No. 1) is DENIED; and
3. The action is DISMISSED WITHOUT PREJUDICE.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: April 29, 2020

BY THE COURT:

s/Nancy E. Brasel
Nancy E. Brasel
United States District Judge